

CT FEATURE

Tailoring the Prison Rape Elimination Act to A Juvenile Setting

By Heidi Pihl-Buckley

U

nder the direction of Commissioner Jane Tewksbury, the Massachusetts Department of Youth Services

(DYS) has become a leader in implementing the Prison Rape Elimination Act (PREA). Massachusetts regarded the enactment of PREA as an opportunity to fine-tune practices and procedures that were already in place, with careful thought given to achieving the goals of the legislation within a juvenile correctional agency. The issue of how to implement PREA mandates with juveniles (e.g., how to raise safety concerns without creating fear) was of paramount importance in each step of the decision-making process.

First, DYS requested technical assistance from the National Institute of Corrections to assist in the development of an implementation plan for PREA. Through NIC, the department was introduced to The Moss Group Inc. and worked closely with consultant Gary Dennis throughout this process. An internal agency workgroup on PREA was formed at the commissioner's level and included representatives from the legal unit, investigations, clinical and medical services, the training academy, victim services, and community and facility operations. Other state agencies were included later in the process as members of subcommittees.

Although DYS already had several policies that included references to sexual misconduct, such as the department's Code of Employee Conduct, there was not a policy that specifically addressed the implementation of PREA. The department's next step, therefore, was to draft specific policies. Under a cooperative agreement with NIC, The

Moss Group provided a thorough appraisal of DYS draft policies, and the department incorporated the recommendations into the final policies, which are now available as model policies for other states.

Spreading a Consistent Message

The department's PREA policies address the issue of prison rape from the perspective of both staff and youths in DYS care and custody. Under both policies, the key focus is on raising staff awareness of: the "red flags" around sexual misconduct, institutional culture, the impact of staff's individual behavior on the institutional culture, and the importance of professionalism in creating an atmosphere in which youths feel comfortable and safe reporting incidents of sexual misconduct to staff. DYS looked at the importance of educating youths about the behavior they should expect from their adult caregivers while in custody. This included informing youths that "consensual" sexual relationships with either staff or other youths are not appropriate in a custodial setting and that it is staff's responsibility to keep them safe. After the policies were completed, The Moss Group provided training to all DYS managers in both state and private provider programs. Following the managers' training, all state and provider staff were trained to ensure that a consistent message about sexual misconduct reached all levels of the organization. Following this initial training rollout for the field, the training department prepared a report detailing specific issues and questions that came up during the training that needed clarification regarding the implementation of PREA and the new sexual misconduct policies. The training has opened the door for deepening the dialogue on this important issue. Some of the specific issues that were raised during the training included:

- Having a professional culture within the facility;
- Opening up communication between shifts and between different units, including operations, clinical and education;
- Providing a positive atmosphere for youths to make progress in treatment; and
- Addressing issues of access to reports of sexual misconduct.

Not allowing a sexualized work environment was one of the main topics discussed at the PREA training. Issues, such as the staff dress code and how staff appearance affects their impact as role models for youths, were raised. Regarding both dress code and language, there were existing policies that needed review and monitoring for consistent application across all programs in order to prevent any mixed messages about sexual misconduct. There was also considerable discussion about appropriate and inappropriate language as it reflects on staff as role models and in terms of creating a positive environment for youths. Historically, Massachusetts has made respectful communication among staff, between staff and youths, and among youths in the facilities and in the community a priority.

Another lesson learned was that successful implementation of PREA requires effective communication at and between all levels of the department. This includes communication between shifts, from management to line staff and between all program units. Particular emphasis was placed on the safety consequences for staff and youths resulting from a lack of communication in a custodial facility, which can create opportunities for sexual misconduct.

Extensive Training

Any PREA training must discuss the institutional cultures in which DYS staff work and specifically address what is considered appropriate programming for juveniles. Providing numerous positive activities for youths to participate in can assist in keeping them from engaging in sexually inappropriate behavior. Effective programming that keeps youths constructively engaged and minimizes both idle time and room confinement can reduce opportunities for sexual misconduct by staff and juveniles.

DYS is now including PREA policy review and training in both pre-employment and annual training requirements for all employees. It consists of a three-hour training module and facilitates important discussion on boundary issues that staff face in the workplace. This process has raised awareness about specific situations that staff may encounter when caring for an adolescent population. The bottom line is that staff be made acutely aware during the PREA training that they should never do anything for or with youths that they would not want their co-workers to know about. To encourage staff reporting, DYS included in its sexual misconduct policies an alternative avenue for staff to report incidents confidentially to the agency's General Counsel's Office.

As part of the department's protocol development, DYS sought to establish relationships and collaborate with other state agencies and organizations in Massachusetts. Representatives from the Massachusetts Department of Public Health and rape crisis centers, along with sexual assault nurse examiners, participated in a number of discussions about how to best care for DYS youths in the event of a sexual assault. These discussions included concerns about how to transport a youth (using all existing safety and security procedures) in the event of a reported sexual assault. Also discussed was the importance of having a staff member with whom the youth is comfortable — preferably one of the same gender — present during the rape kit collection to support the youth and provide security.

The sexual assault nurse examiners provided detailed training for staff that included education about collection and preservation of evidence of the assault. Staff were familiarized with the rape kit collection process, and counselors from the rape crisis centers detailed specific victim issues, including the need to be sensitive to the fact that the victim will be asked to repeat the details of the assault, inevitably causing distress to the victim. DYS is now developing protocols for the transportation of DYS youths to specified sexual assault nurse examiner hospitals in the event of a sexual assault to ensure the best possible evidence collection and follow-up care for the youths.

As part of its intake process for youths, DYS has developed an informational orientation for youths that includes information related to appropriate relationship boundaries (both verbal and physical); healthy and unhealthy relationships; how to report sexual misconduct and assault; and what to do if they are sexually assaulted. The orientation is gender-responsive and features information about prevention, self-protection, treatment and counseling. DYS also included information on the importance of never making intentionally false allegations.

The orientation package includes an individual brochure to distribute to youths upon admission and a PowerPoint presentation to enable staff to review the slides with youths either individually or in a group. The presentation includes specific bulleted talking points to facilitate discussion of key issues in a nonthreatening way. The brochure can be personalized with the name of the youth's clinician and advocate. The brochure states: "The Department of Youth Services takes all allegations of boundary violations, sexual misconduct and sexual assault very seriously. It is important that you report to staff, any allegations that you hear, whether you believe them or not. It is staff's responsibility to investigate. It is also important that you never make an intentionally false allegation for any reason. You will be held accountable if you do."

While reviewing existing DYS practices, the PREA workgroup found that these practices could be expanded to include PREA mandates. The Massachusetts DYS has five basic rules of conduct (see sidebar) that are posted in all of its programs and that are incorporated into the DYS orientation package in order to make this information part of every intake. These rules were created to communicate the positive behavior the department expects of youths when they are in DYS care. Dr. Yvonne Sparling, director of clinical services for DYS, discovered that PREA could easily be incorporated into the basic rules as an additional way of reinforcing the rules. Extra time can be spent on issues that directly relate to PREA, as well as on the prohibitions of certain behaviors. Whatever rules of conduct an agency already has in place can be adjusted to include PREA.

Massachusetts believes that the PREA legislation has presented another opportunity to speak to youths in DYS care about boundary issues, sexual misconduct and sexual assault. Youths are told that there are no consensual sexual relationships while they are in DYS custody and that sexual contact with staff or youths is prohibited behavior. As stated in the DYS brochure: "No youth or staff members ever have the right to ask you for a sexual favor or to have sex with you. You also do not have the right to ask any other youth for sexual favors as they cannot consent due to their age and custodial status." The information given to youths is intended to focus them on positive behavior and to avoid negative behavior.

Moving Forward

Implementing PREA at the Massachusetts DYS required staff to examine the department's current practices. DYS found that although many things were being done well, there remained room for improvement. One of the issues the agency examined was how youths report grievances or incidents. What was the department's grievance procedure? Was the grievance procedure implemented consistently throughout the system? In response to the findings, DYS developed a "child friendly" grievance form. DYS is in the process of putting locked drop boxes in every facility in order to provide an easy means for a youth to report sexual misconduct when he or she is not comfortable going to a staff member. The boxes will be located in areas that are easily accessible to youths. Staff in the chain of command outside of the location itself will collect the forms.

Massachusetts has been proactive in its implementation of PREA and in its commitment to allocating the necessary time, staff and resources to this effort. The issues discussed here are only a sample of those addressed by DYS and represent only some of the initiatives the department has put in place. Going forward, PREA will require that DYS examine statistics, keep track of information about sexual misconduct in the agency, and continue to question the efficiency and effectiveness of current policies and procedures.

The Massachusetts DYS believes that it is responsible for asking three basic questions: Are the agency's policies and practices fair? Are they consistent? And, do they make sense? This self-assessment will help keep both staff and youths safe by ensuring that the youths in DYS care are treated with respect and dignity.

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Rules of Conduct

Basic rules to follow:

1. We respect each other's safety; no verbal or physically assaultive behavior.
2. We appreciate each other's individuality; no gang activity.
3. We maintain self-control; no self-abusive behavior.
4. We respect our surroundings; no damage to the building/property.
5. We accept the importance of boundaries; no relationships beyond friendship..